

Retailers' Occupation Tax does not apply to sales of aggregate exploration, mining, off highway hauling, processing, maintenance and reclamation equipment used for the exploration and mining of mineral deposits and for the manufacture of resultant aggregate products. See 86 Ill. Adm. Code 130.351. (This is a GIL).

October 24, 2001

Dear Xxxxx:

This letter is in response to your letter dated October 15, 2001. The nature of your letter and the information you have provided require that we respond with a General Information Letter, which is designed to provide general information, is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120 subsections (b) and (c), which can be found at <http://www.revenue.state.il.us/legalinformation/regs/part1200>.

In your letter, you have stated and made inquiry as follows:

We have a question regarding the taxability of a 'Floodlight' used in our aggregate manufacturing operation.

Illinois department of revenue regulation section 130.351 paragraph (c)(5) provides that the use of equipment for general illumination *not specifically required* for the processing operation is subject to sales tax. We have purchased large industrial sized floodlight lamps to illuminate our aggregate plant and processing operation. We are unable to operate the aggregate processing plant without the illumination provided by the floodlights. Therefore, the floodlights are *required* for the processing operation. Are the floodlights we purchased within the state's definition of *specifically required*?

I would appreciate it if you would fax your response to me at the number shown below.

"Notwithstanding the fact that the sales may be at retail, the Retailers' Occupation Tax Act does not apply to sales of aggregate exploration, mining, off highway hauling, processing, maintenance and reclamation equipment used for the exploration and mining of mineral deposits and for the manufacture of resultant aggregate products." 86 Ill. Adm. Code 130.351(a). "Aggregate" means any mineral deposit or finished product including but not limited to sand, gravel, stone, clay, industrial minerals, composites or other mineral solids, except coal. 86 Ill. Adm. Code 130.351(a)(1). "Processing" means preparation activities performed directly on the aggregate that are necessary for converting aggregate into a finished product so that it is ready for sale. Processing includes, but is not limited to, sizing, crushing, drying and washing." 86 Ill. Adm. Code 130.351(a)(6).

As you have noted, Section 130.351(c)(5) provides that “the use of equipment for general ventilation, heating, cooling, climate control or general illumination not specifically required for the exploration, mining, off highway hauling, processing, maintenance or reclamation operation” are nonexempt activities. However, while you have indicated that the aggregate processing plant cannot operate without the illumination provided by the floodlights, you have not provided any information to demonstrate how the floodlight is specifically required for aggregate processing as distinguished from such nonexempt uses as general illumination.

I hope this information is helpful. The Department of Revenue maintains a Web site, which can be accessed at www.revenue.state.il.us. If you have further questions related to the Illinois sales tax laws, please contact the Department's Taxpayer Information Division at (217) 782-3336.

If you are not under audit and you wish to obtain a binding Private Letter Ruling regarding your factual situation, please submit all of the information set out in items 1 through 8 of the enclosed copy of Section 1200.110(b).

Very truly yours,

Martha P. Mote
Associate Counsel

MPM:msk